

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JASON RICHARD EIDAM,

Plaintiff,

Case No. 1:10-cv-1165

v

HON. JANET T. NEFF

BLAINE LAFLER, et al.,

Defendants.

OPINION AND ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983 involving alleged violations of the Eighth Amendment. Defendants filed a motion for summary judgment, arguing that Plaintiff has failed to establish an Eighth Amendment claim; that they were entitled to qualified immunity; and that they were entitled to summary judgment on claims against them in their official capacities. Plaintiff moved to continue discovery pending the motion for summary judgment. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R & R), recommending that this Court grant Defendants' motion with respect to claims against them in their official capacities and deny Defendants' motion with respect to the Eighth Amendment claims against them in their personal capacities and the issue of qualified immunity. The Magistrate Judge also recommended that Plaintiff's motion to continue discovery be denied unless this Court grants Defendants' motion. The matter is presently before the Court on Defendants' objections to the Report and Recommendation, to which Plaintiff filed a response. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those

portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

Defendants object to the Magistrate Judge's determination that there exist genuine issues of material fact with regard to Plaintiff's Eighth Amendment claim against them in their personal capacities (Defs. Obj., Dkt 45 at 4; R & R, Dkt 43 at 10). The Magistrate Judge correctly articulated the summary judgment standard and concluded, based upon Plaintiff's verified complaint and supporting affidavits and Defendants' filings and affidavits in response, that genuine issues of material fact exist with regard to Plaintiff's Eighth Amendment claims (R & R, Dkt 43 at 4, 9-10). Defendants have offered no new arguments in support of their objection, but rather have restated the version of events contained in their filings and affidavits (Defs. Obj., Dkt 45 at 2-4). Because Defendants have failed to demonstrate a lack of genuine issues of material fact, the Magistrate Judge correctly recommended their motion for summary judgment be denied. Defendants' argument to the contrary lacks merit, and their objection is therefore denied. Therefore:

IT IS HEREBY ORDERED that the Objections (Dkt 45) are DENIED, and the Report and Recommendation (Dkt 43) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Motion for Summary Judgment (Dkt 20) is DENIED IN PART and GRANTED IN PART, for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that the Motion to Continue Discovery (Dkt 25) is DENIED.

Dated: February 28, 2012

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge